

**UNITED STATES DISTRICT COURT  
FOR THE  
DISTRICT OF VERMONT**

<b>SCOTT HUMINSKI,</b>	:	
<b>Plaintiff</b>	:	
	:	
<b>v.</b>	:	<b>File No. 1:99-CV-160</b>
	:	
<b>RUTLAND COUNTY SHERIFF'S DEPT.,</b>	:	
<b>HON. NANCY CORSONES,</b>	:	
<b>HON. PATRICIA ZIMMERMAN,</b>	:	
<b>KAREN PREDOM,</b>	:	
<b>and SHERIFF R.J. ELRICK,</b>	:	
<b>Defendants</b>	:	

**ORDER**  
(Paper 199)

This matter is before the Court on remand. See Huminski v. Corsones, 396 F.3d 53 (2d Cir. 2005). The Court issued a Ruling and Order on July 7, 2005 (Paper 197) ("July Order"). The plaintiff has filed a motion to amend the July Order (Paper 199), to which the defendants have filed responses (Papers 200, 201, 202, 204) and the plaintiff has filed replies (Papers 203, 205).

After a review of the pleadings filed by the parties, plaintiff's motion to amend the July Order is DENIED. The Court is confident that Judges Corsones and Zimmerman will comply with Second Circuit decisions in this case, thereby making declaratory relief unnecessary and inappropriate. See, e.g., Wilton v. Seven Falls Co., 515 U.S. 277, 282 (1995) (court has discretion to determine whether to entertain declaratory judgment action).

The Conclusion of the Court's July Order is modified as follows:

1. A trial by jury on the issue of damages to be awarded the plaintiff against defendants Predom and Elrick as a result of their violation of his right to free expression, as discussed in the Second Circuit's remand opinion, will be held on a date to be set by the Court in November 2005.

2. The issue of "whether, under present circumstances, permanent injunctive relief is required and, of course, the terms of any such injunction." 396 F. 3d at 94" will be decided by the Court subsequent to the completion of the jury trial on damages.

3. The parties shall consult and agree upon a discovery schedule limited to the issue of damages, which shall call for completion of discovery by November 1, 2005.

4. The Court will hear the issue of the award of attorney's fees, if any, to be awarded the plaintiff subsequent to the completion of the jury trial on damages.

5. The August 29, 2005 hearing is CANCELLED.

Dated at Brattleboro, in the District of Vermont, this 24<sup>th</sup> day of August, 2005.

/s/ J. Garvan Murtha  
J. Garvan Murtha  
U.S. District Court Judge